

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OMEGA CONSULTING,

Plaintiff,

09 Civ. 2628 (PKC)(GWG)

-against-

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

CONTIFINACIAL CORPORATION,

Defendant.

-----x

P. KEVIN CASTEL, District Judge:

This action was referred to Magistrate Judge Gabriel W. Gorenstein for general pretrial supervision. (Order of May 29, 2009) Based upon plaintiff's failure to comply with Rule 4(m) and the warning contained in the Magistrate Judge's Order of June 23, 2009, Judge Gorenstein issued a Report and Recommendation, filed August 20, 2008, which recommended that the action be dismissed without prejudice (the "R & R").

The R & R advised the parties that they had ten days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called plaintiff's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Plaintiff received clear notice of the consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038 (1992). See also Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

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The R & R is adopted and the action is dismissed without prejudice.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
September 10, 2009